



Dear Friends,

A horror story of malpractice—of restraints, drugs, isolation and coercive therapy—is unfolding in testimony in the federal criminal trial against five former employees of the Spring Shadows Glen private mental hospital. Whether that story also proves that the defendants committed fraud will be up to the jury. In a 61-count indictment, psychologist Judith Peterson, psychiatrists Richard Seward and Gloria Keraga, therapist Sylvia Davis and hospital administrator George Jerry Mueck were accused of mail fraud, insurance fraud and knowingly misdiagnosing MPD in order to keep patients in the hospital.

At this writing there is no way of knowing whether the federal prosecutors will prove their criminal case beyond a reasonable doubt. But we do know that the jury has heard that the hospital used its own funds to pay the insurance premiums on some patient policies. The jury heard tapes in which defendants used hypnosis with patients and then they heard tapes in which the defendants told insurance representatives that they did not use hypnosis at Spring Shadows Glen. The jury saw many patient reports in which nurses' and therapists' observations were completely different. The jury heard about a girl who was admitted to the hospital just before her 13th birthday to protect her from a satanic cult. The child's medical exam showed no evidence of abuse, but in therapy, the girl came to tell stories of multiple rapes.

The defense has argued that the treatment of patients at Spring Shadows Glen was appropriate because patients arrived having already received a diagnosis of serious mental illness. They have pointed out that some of the defendants really believed in the existence of satanic cults that practiced murder and cannibalism. They have attempted to lessen the credibility of prosecution witnesses by pointing out inconsistencies in some testimony.

Whether or not the defendants' conduct was a federal crime is still an open question. Believing in satanic cults is, of course, not a crime. But we wonder, for example, how could anyone—whether he or she believed in satanic cults or not—take seriously any “memories” elicited with the use of hypnosis? The American Medical Association published

the following in 1985:

“The Council finds that recollections obtained during hypnosis can involve confabulations and pseudomemories and not only fail to be more accurate, but actually appear to be less reliable than non hypnotic recall.” (American Medical Association, 1985)

How could anyone—whether he or she believed in satanic cults or not—overlook the controversial nature of the MPD diagnosis? A survey done in 1988 of members of the International Society for the Study of Multiple Personality and Dissociation (ISSMP&D, name changed in 1995 to International Society for the Study of Dissociation, ISSD) indicated that the members of that organization were well-aware of the skepticism. (See p. 3)

How could anyone—whether he or she believed in satanic cults or not—overlook the laws and ethical codes that applied to the use of restraints and isolation and think that the techniques used in recovered memory therapy were acceptable—either then or now?

Whatever the jury ultimately decides about the issues of fraud, this trial exposes the shameful horror of what took place at Spring Shadows Glen. It shows the links between Spring Shadows Glen and the group of people who worked with psychiatrist Bennett Braun in Chicago against whom the Illinois licensing board has filed charges for treatment of patients similar to that at Spring Shadows Glen. The federal trial shows that the outrageous practices and beliefs did not take place in a vacuum. The members of the ISSMP&D honored Bennett Braun for the practices that are now questioned by the government.

Across the country former patients have reported experiences similar to those being exposed in the Houston and

***In this Issue...***

<i>Pankratz</i> .....	5
<i>Tyroler</i> .....	6
<i>Legal Corner</i> .....	8
<i>Piper</i> .....	13
<i>From Our Readers</i> .....	15
<i>Bulletin Board</i> .....	18

Chicago actions. It is instructive how often they have told us that their doctors learned about the satanic cults from seminars given through the ISSMP&D. Talks were presented at American Psychiatric Association and American Psychological Association meetings among others. Treatment procedures were taught at these seminars. Videotapes and audiotapes of these programs are still available. The recovered memory phenomenon did not take place in a vacuum. Where was the rest of the mental health profession? Where are they now?

Pamela



### What Can I Do?

Former patients have told us about the experiences that served as catalysts for them in questioning their therapy-acquired "memories," and that led to reuniting with their families. Mary Shanley, who was a patient at Spring Shadows Glen, was part of a four-person panel at a recent meeting of families in Chicago. Mary told the audience that while she was still in the hospital she picked up a magazine that had been left by a nurse containing an article about FMS and satanic ritual abuse. She said that article helped her to realize that some people were skeptical about such beliefs. The magazine had a telephone number that she called to get information. Another panel member said that she first began to question when she went to the library and saw a display of Upton books. She said that it became clear to her that the recovered-memory issue was controversial when she saw so many books that questioned it. Another panel member said that a friend phoned her one day and said "Turn on your television." She did and she saw a program with FMS families and retractors.

The message is clear: Information is needed. Our children were not told the whole story. Because people who are caught in the recovered-memory belief system will not accept material from parents and others who love them, information must come from other sources: books and libraries, magazine articles and television programs.

If each person who has contacted the Foundation would accept the responsibility for ensuring that local libraries have books with accurate information about recovered memories, we will have taken a big step in providing the information that is needed for people to think for themselves.



**<http://www.fmsfonline.org>**

is the address of the website that FMSF is developing. (The site currently has background information on the U.S.A. v Peterson trial in Houston, Texas.)

## Wenatchee—A Personal Tragedy

FMSF Staff

Of all the casualties in the Wenatchee sex abuse investigations, none seems more tragic than the controversial case of Harold and Idella Everett. The couple spent nearly four years in prison for Wenatchee child sex ring convictions that were recently overturned. The Everetts were released from prison September 15, after a three-judge panel ruled that intimidation and false information were used to get them to say that they had raped and molested their five children, and that improper methods were used to obtain accusations from their children. Both the Everetts are illiterate, mentally disabled, and unable to work.

Their plight after release was recently depicted in an article by Andrew Schneider in the *Seattle Post-Intelligencer* (9/28/98). The Everetts have their freedom and each other, Schneider reports, and little else—no house, little clothing, and not much more than one hundred dollars between them. They received no compensation for their wrongful imprisonment, nothing even to begin to make up for the four years spent in prison or the loss of their children.

The Everett's five children, were removed by the state during the investigation and trial. The Everetts don't know if they will ever regain custody. Their twin boys are in foster homes; their older daughter is in a mental hospital; their oldest son, now 18, was adopted by an out-of-state family; and the Everetts are unsure of where the state placed their younger daughter. The two daughters had been the main accusers of many other adults as well as the Everetts.

When they arrived in Wenatchee after their release from prison, the Everetts knew that their tiny rental house would no longer be awaiting them. But what they did not know was where their furniture and personal belongings are now. In the meantime, they'll stay at Idella's parents' house, sleeping on the floor.

Although they now have their freedom, Harold thinks about the others still wrongfully imprisoned, and wonders what will happen to them. Idella hopes that the judge's decision that set them free will help those people. More than 50 lawyers have joined with the University of Washington's Innocence Project in an attempt to win new trials for those still in prison.



### special thanks

We extend a very special "Thank you" to all of the people who help prepare the FMSF Newsletter. *Editorial Support:* Toby Feld, Allen Feld, Janet Fetkewicz, Howard Fishman, Peter Freyd. *Research:* Michele Gregg, Anita Lipton. *Notices and Production:* Ric Powell. *Columnists:* Katie Spanuello and members of the FMSF Scientific Advisory Board. *Letters and information:* Our Readers.

Multiple personality disorder was included in the Diagnostic and Statistical Manual-III in 1980. This fact has encouraged some people to claim that MPD was generally accepted in the medical community. A 1988 study, however, raises serious questions about the acceptance of MPD in the professional community.

### **Professional Skepticism about Multiple Personality**

Paul F. Dell

*Journal of Nervous and Mental Disease* Vol. 176 #9, 1988 528-531

The author randomly selected 40 psychiatrists, 40 Ph.D.-level psychologists, and 40 masters-level therapists who were members of the International Society for the Study of Multiple Personality and Dissociation (now known as the International Society for the Study of Dissociation). Sixty-two of this group (52%) completed a questionnaire asking if they had experienced skepticism about the MPD diagnosis. The questionnaire asked how frequently respondents encountered skepticism, who had shown skepticism, and whether it adversely affected the patients' treatment. Respondents were also asked to report the worst incident of skepticism they had encountered. Answers were assigned to 1 of 5 categories ranging from ordinary doubt to aggression.

Ninety-eight percent of the respondents said they had encountered skepticism; 82 percent considered the skepticism to be moderate to extreme. Dell observed that "Psychiatrists not only tended to receive the most extreme forms of skepticism, but were the most frequent (and most severe) purveyors of that skepticism."

Narratives of the worst incidents included practitioners who were banned from their hospital units, who repeatedly had to undergo staff

reviews, or whose patients were refused admission to the hospital. Respondents described nursing staff who refused to follow treatment plans and medical directors who ordered staff not to treat patients as having MPD. Dell commented that "the incidents were not rare exceptions but instead almost the rule."

Dell acknowledged that the 52 percent response rate weakened the report. However, he commented that "even if we assume that nonresponders to the survey had encountered no skepticism, the data would still indicate that more than 40 percent of clinicians who treat patients with MPD have encountered strong disbelief, interference with treatment, and extreme harassment."

From where we sit, the results of this paper indicate that MPD was not generally accepted in 1988. Rather, it seems obvious from the ISSMP&D's own members that skepticism ran deep in 1988.

To be continued.



**"The efficacy of psychotherapy for dissociative identity disorder is not a scientific fact."**

p 1304

Colin Ross and Joan Ellason  
*Am J. Psychiatry* 155:9, 1998,1304-1305

### **An Architectural Mind: The Nature of Real, Created, and Fabricated Memories for Emotional Childhood Events**

Dissertation by Stephen Porter  
University of British Columbia  
John C. Yuille and Darrin R. Lehman  
(Faculty Advisors)

The results of Stephen Porter's dissertation will be of interest to newsletter readers. Porter examined (1) whether false memories for emotional childhood events could be implanted, (2) whether real, implanted and fabricated events could be discriminated, and (3) whether there were individual differences in susceptibility.

A questionnaire was sent to the participants' parents asking about 6 highly emotional events which participants may have experienced between ages 4 and 10. Across 3 interviews, interviewers attempted to elicit a false memory in 77 participants using guided imagery and other techniques. In the first session, participants were interviewed about a real and a false event, each introduced as true. In the next two sessions, they were interviewed about the false event. At the end of the final interview, they were also instructed to fabricate a memory to the interviewer.

Porter found that 26 percent of participants experienced complete created memory and that 30 percent experienced a partial memory. He found that real, created and fabricated memories differed on several important features (e.g. confidence, vividness, details, repeated details, coherence, stress, perspective). And he found that participants who experienced a created or partial memory scored twice as high on the Dissociative Experiences Scale.

The dissertation may be obtained from the UBC Library. An abbreviated version may be obtained from the author: Stephen Porter, Ph.D., Chair/ Forensic Psychology, Dalhousie University, Halifax, NS, B3H 4J1, Canada.



### **Accuracy of Reports of Recovered Memories of WWII Experiences Questioned**

The current issue *Professional Psychology: Research and Practice*, 1998, Vol 29, No 5 contains four articles challenging a claim made by Bertram and Widener in a 1997 article as well as the Bertram and Widener's response to those challenges. The Bertram and Widener position is that "Repression obviously exists. Every psychodynamic therapist sees it. The only way he or she could not see it is by assuming that what patients say are

lies." The challenges are written by James C. Giglio, Scott Lilienfeld and Elizabeth Loftus, August Piper, Jr., and Mark Pendergrast.

Bertram and Widener's original article asserted that case studies of World War II combat neuroses provide ample evidence for the existence of repression. One example was given of an airman injured in a crash who was treated by a Veterans Affairs psychiatrist after the war. The airman recovered the memory of the crash in therapy. Giglio challenged the airman's story on the grounds that there was no airplane used at the time as described in his story. The other authors pointed to areas of weaknesses in the research cited by Bertram and Widener and commented that the anecdote and the cited research did not support their claim.

Karon, B.P. & Widener, A.J. (1997). Repressed memories and World War II: Let us forget! *Professional Psychology: Research and Practice*, 28, 338-340.

Karon, B.P. & Widener, A.J. (1998). Repressed memories: The Real Story. *Professional Psychology: Research and Practice*, 1998, Vol 29, No 5, 482-487.

*Fragments: Memories of a Wartime Childhood* (1995) is a highly acclaimed book by Benjamin Wilkomirski about his boyhood spent in the concentration camps of Majdanek and Auschwitz where he saw his father and his friends killed. Wilkomirski claimed that his childhood memories surfaced as a result of psychotherapy. The book has been translated into 12 languages and received many awards and the praise of historians and reviewers. Research by Swiss writer Daniel Ganzfried, however, has shown that Wilkomirski's book is more likely than not fiction. According to Joseph Kahn in the *Boston Globe* (10/20/98) the book "is sparking debate among Holocaust scholars over the veracity of the book's author and the validity of 'recovered memory' marketed as historical truth."



## EXCERPTS FROM PROFESSIONAL STATEMENTS

### Distinguishing true from false memories: external corroboration.

"It is not known how to distinguish, with complete accuracy, memories based on true events from those derived from other sources." (American Psychiatric Association, 1993)

"While aspects of the alleged abuse situation, as well as the context in which the memories emerge, can contribute to the assessment, there is no completely accurate way of determining the validity of reports in the absence of corroborating information." (American Psychiatric Association, 1993)

"The AMA considered recovered memories of childhood sexual abuse to be of uncertain authenticity, which should be subject to external verification. The use of recovered memories is fraught with problems of potential misapplication." (American Medical Association, 1994)

"The available scientific and clinical evidence does not allow accurate, inaccurate, and fabricated memories to be distinguished in the absence of independent corroboration." (Australian Psychological Society, 1994)

"At present there are no scientifically valid criteria that would generally permit the reliable differentiation of true recovered memories of sexual abuse from pseudomemories." (Michigan Psychological Association, 1995)

"At this point it is impossible, without other corroborative evidence, to distinguish a true memory from a false one." (American Psychological Association, 1995)

"Psychologists acknowledge that a definite conclusion that a memory is based on objective reality is not possible unless there is incontrovertible corroborating evidence." (Canadian Psychological Association, 1996)

### Hypnosis and memory recovery techniques

"The Council finds that recollections obtained during hypnosis can involve confabulations and pseudomemories and not only fail to be more accurate, but actually appear to be less reliable than non hypnotic recall." (American Medical Association, 1985)

"Psychiatrists are advised to avoid engaging in any 'memory recovery techniques' which are based upon the expectation of past sexual abuse of which the patient has no memory. Such 'memory recovery techniques' may include drug-mediated interviews, hypnosis, regression therapies, guided imagery, 'body memories', literal dream interpretation and journaling. There is no evidence that the use of consciousness-altering techniques, such as drug-mediated interviews or hypnosis can reveal or accurately elaborate factual information about any past experiences including childhood sexual abuse. Techniques of regression therapy including 'age regression' and hypnotic regression are of unproven effectiveness." (Royal College of Psychiatrists, 1997)

### Caution on using a set of symptoms to diagnose child sexual abuse or a child abuser.

"There is no uniform 'profile' or other method to accurately distinguish those who have sexually abused children from those who have not." (American Psychiatric Association, 1993)

"Psychologists recognize that there is no constellation of symptoms which is diagnostic of child sexual abuse." (Canadian Psychological Association, August 1996)

"Previous sexual abuse in the absence of memories of these events cannot be diagnosed through a checklist of symptoms." (Royal College of Psychiatrists, 1997)

## Stolen Valor: How the Vietnam Generation Was Robbed of its Heroes and its History.

B.G. Burkett and Glenna Whitley.

Dallas: Verity Press, 1998. 692 pp hardbound in dust jacket. \$31.95. [Order from [www.stolenvalor.com](http://www.stolenvalor.com) or [Amazon.com](http://Amazon.com).]

Reviewed by Loren Pankratz,

In 1986, Dallas stockbroker B.G. Burkett agreed to raise money to erect a Vietnam war memorial in Texas. He never realized that negative stereotypes of the Vietnam veteran would make his task so difficult. Three years later at the dedication of the memorial, television crews approached Burkett asking for some comments from the vets. But instead of approaching the distinguished members of the memorial fund committee, the TV crew focused on an uninvited hodgepodge of men in camouflage fatigues and blue jeans, sporting ponytails and scraggly beards. Several wore the insignia of combat units or the green beret of the elite Special Forces.

Burkett fumed. It was exactly this image—of veterans as pathetic losers, wackos from war experiences—that had made his fundraising difficult.

He was not distressed merely because his fundraising colleagues had been ignored. There was a deeper problem: something just didn't ring true. He knew that veterans from elite units were the cream of the crop, almost always college graduates with too much pride to be seen in public unkempt and slovenly.

During the early years of fundraising, Burkett had requested the military records for one particularly obnoxious vet under the Freedom of Information Act. The records confirmed what he had suspected all along: this man was not a Green Beret. In fact, he had never even been in Vietnam. He had served in Germany where he accumulated

AWOLs and was demoted in rank to sergeant.

Thus began Burkett's private war to expose the lies of those who twisted history. These false stories had driven out the true, and stolen the valor of men who served their country with honor.

This is a can't-put-it down book even though you often know what's going to happen. Burkett describes the stories of hundreds of individuals, from the anonymous guy holding a sign saying "Vet will work for food," to the rich-and-famous: the hero behind the movie "Born on the Fourth of July," Sylvester Stallone of "Rambo" fame, Dan Rather, and a handful of congressmen. Then, with surgical precision he exposes the truth as revealed in these peoples' detailed military records.

But Burkett, by going beyond the anecdotal story, provides the bigger picture. Most people believe all the myths: that the Vietnam war was fought by minorities and ghetto youth, and that our vets came home to live on the streets and in prisons, haunted by the atrocities of war, drowning their memories in drink and drugs. Burkett names the reporters, activists, and politicians who, for their own ends, have distorted or created history. He names the mental health professionals who reinforced the myths. He provides excerpts from their reports and from court proceedings.

What the lady from Philadelphia did with recovered memories, the guy from Dallas has done with Posttraumatic Stress Disorder.

Burkett shows how thoroughly we have been caught in the pretenders' web of lies. In 1992, Burkett read an editorial in *Vietnam* magazine that boasted that the magazine's review board was scrupulous about including only accurate history in their publication. The editor, Col. Harry Summers, Jr., (Ret), a distinguished fellow at the Army War College, had stated that he

and his editors could tell phonies in "the first three sentences." Burkett wrote, pointing out that in a previous issue they had published a POW story that had been stolen from a book, *Everything We Had*. And even the story in that book was bogus!

Moreover, Summers had written an introduction to Shelby Stanton's book, *The Rise and Fall of an American Army*. Summers praised Stanton as a "Vietnam combat veteran decorated for valor and now retired as a result of wounds suffered on the battlefield." But Stanton's claimed combat experience as a Ranger performing underwater scuba missions in the Mekong River was fabricated. Stanton was never in combat and did not earn the medals he claimed. In fact, Stanton was never in Vietnam! He had a desk job in Thailand for one year and was then retired from the Army because of his asthma. A few issues later, Shelby Stanton's name disappeared from the *Vietnam's* masthead.

How did we mess up so badly? We looked for what we wanted to find. And where we could not find what we wanted, pretenders eagerly gave us the stories we expected. We have parallels from history. For example, things have not changed much since the end of the 16th Century when a certain Bragadino arrived in Venice with stories of his accomplishments in distant lands, like the ability to make gold multiply through secret alchemical methods.<sup>1</sup> The people of the city eagerly laid their fortunes at his feet. How could such a singular aberration be explained in this great city? Bragadino was immediately lionized because everyone had been looking for him so earnestly.

The next time your buddy shows you his Medal of Honor, open the appendix of *Stolen Valor* and see if he is one of the surviving 170 Vietnam vets who actually earned the award. Burkett reveals how fake medals and citations have become a cottage indus-

try. Distinguished Service Cross, Navy Cross, and Air Force Cross recipients are also listed here for the first time.

Check it out.

1. DeFrancisco (1939) *The Power of the Charlatan*. Loren Pankratz, Ph.D. is a Consultation Psychologist and Clinical Professor, Oregon Health Sciences University, Portland OR. He is the author of *Patients Who Deceive*, Charles C. Thomas, 1998. Dr. Pankratz is a member of the FMSF Scientific Advisory Board



### The Great Children's Home Panic

Richard Webster, The Orwell Press  
10 Radley House, Marston Ferry Road  
Oxford OX2 7EA, UK  
1998 ISBN 0 9515922 2X  
Reviewed by Paula Tyroler

This slim (69 pages) and impromptu book by a British scholar R. Webster (author of a highly acclaimed book *Why Freud Was Wrong*) consists of three articles and an appendix. The first article, "Care Goes on Trial," was originally published in the *Guardian* in January 1997, the second one, "Police, Care Workers and Creation on False Allegations" was prepared for private circulation among people who had become involved in the allegations this book describes, and the third article was written exclusively for this book. In spite of its brevity, it is one of the most insightful and powerful books written on the topic of false accusations.

A lot has been written about false accusations stemming from "recovered memory therapy," false accusations by children in custody disputes, and false accusations by children in day-care settings. R. Webster documents yet another category, namely accusations of sexual abuse made by adults who used to be residents of various children's homes, accusations based on what Webster calls "retrospective investigation." The term "children's homes" is misleading. The

major investigations have been focused on institutions which deal not with children but with exceptionally difficult adolescents. Most of those who made complaints about sexual abuse have done so as adults, long time after they left the allegedly abusive environment. And most of the complaints were far from spontaneous. The vast majority of the allegations were collected by police officers who were actively seeking evidence against a certain suspect or the staff of particular home. It is now a common knowledge among former residents of these institutions that allegations of sexual abuse can result in successful civil claims for amounts up to 100,000 pounds, or in hefty awards paid by the Criminal Injuries Compensation Boards. Webster does not deny that some of the accusations are true. But in more than a dozen cases which have already come to light, independent observers have examined the evidence and found it flawed and unconvincing.

Webster thoroughly analysis the roots and development of this panic, which quickly moved through the "satanic ritual abuse" stage to "paedophile rings" conspiracy. He discusses the role of social services, police and the media. Between 1988-1991, three large retrospective investigations were carried out in mainland Britain. In one of them, the North Wales investigation, more than 600 individuals made allegations against no less than 365 care workers from a variety of care homes. Following these three original investigations, many more have been launched in different parts of the country. In the north-west alone, about forty care workers have been charged, and most of them convicted, with prison terms up to 18 years. The convictions were secured by "corroboration by quantity." In other words, if many people alleged the same crime, the crime must have happened. It is frightening that future investigations can be justified by reference to the ear-

lier, flawed convictions often based on fabricated evidence. As recently as in January 1998, police revealed that they had opened an investigation into allegations of sexual abuse in more than seven children's homes in the Greater Manchester area with one of the allegations dating back forty years. Webster informs the readers that, for the present time, it would appear that a third of the police forces in England are engaged in retrospective investigations into care homes and that similar investigations are also in progress in Wales and Scotland. And if the pattern of earlier investigations is followed, it seems probable that a large number of those convicted will be completely innocent. In Webster's words: "If we have indeed created a machine for bringing about miscarriage of justice, then all the evidence suggests that this machine is gathering momentum almost by the day." Webster's tiny book is a wake up call for people who still trust the western-world justice system and a call to action for all concerned citizens on both sides of the Atlantic.

Paula Tyroler, Ph.D. is a chemical engineer. She is an Associate Professor at Laurentian University.

Child abuse is now the plot point of a thousand dramas in literature, theatre and cinema. A huge industry has emerged around the fabrication of recovered memory syndrome. One hardly stands a chance of being interesting unless one can attest to being the product of abuse. Write a book about how you had sex with your dad and become a celebrity. Child abuse has become so generalized, and so obviously an idealized cause of the problems of adults, that we no longer know how to mobilize repugnance. We are even less sure of whether it is a real, increasingly prevalent problem, or a frequency created by the attention devoted to it.

Ziauddin Sardar

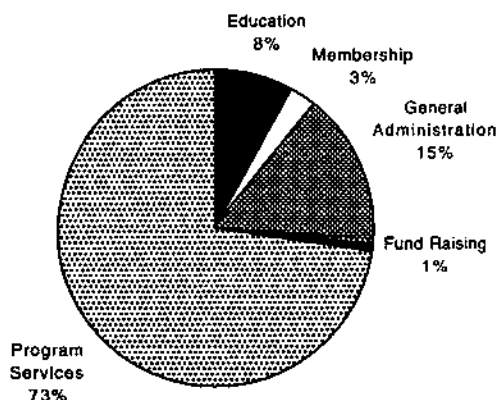
*The Herald* (Glasgow) October 3, 1998  
The Confusions of Childhood

## FMSF EXPENSES

MARCH 1997 - FEBRUARY 1998

Program Services/Education	\$ 544,056
General Administration	\$ 103,932
Membership	\$ 20,273
Fund Raising	\$ 7,008
<b>TOTAL EXPENSES</b>	<b>\$ 675,269</b>

Program Services include education and represent 81% of fiscal 1998 expenses.



Dear Friends:

Think of the FMS Foundation as being like your favorite public broadcasting station. First, like that station, we make our appeal once a year. If we are to continue, we must get financial support from our members and the readers of this newsletter. Second, we, too, provide an important public service worthy of support.

If you are a regular reader of this publication, you understand the mission of FMSF better than any words can communicate. You know we are working to bring an end to the madness that has damaged or destroyed so many thousands of families and at the same time encourage the mental health community to set standards that will lessen the risk of future disasters such as we have experienced.

If your family has not yet been reunited, help us because our work will benefit you directly. If you are among the fortunate families already reunited, help us to rescue those families left behind. They should experience the extraordinary joy and freedom from pain that has come to you and yours.

Please be generous. Wonderful progress has been made but much unnecessary suffering continues. The work of the False Memory Syndrome Foundation must continue.

Contributions are tax deductible. Many supporters of non-profit organizations find it beneficial tax-wise to donate highly appreciated securities. If you think this might be applicable to you, you may want to talk with Charles Caviness who could answer your questions. His phone number is 1-800-289-9060

*I want to help the False Memory Syndrome Foundation continue its work.*

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False Memory Syndrome Foundation  
3401 Market Street • Suite 130  
Philadelphia, PA 19104-3315

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FMSF Staff

**Criminal Trial Against Texas Therapists Continues**  
United States of America v. Peterson, et al., U.S. Dist. Ct.,  
 Southern Dist., Texas, No. H-97-237.<sup>1</sup>

The defendants in a federal conspiracy and fraud case are charged with, among other things, conspiring to defraud health insurance providers of millions of dollars for the treatment of patients falsely diagnosed as suffering from MPD said to be caused by severe ritualized sexual abuse. All of the patients referred to in the indictment had generous or unlimited insurance policies. Opening days of the trial were dominated by insurance payment and billing documents which the government maintained showed that the defendants had bilked insurance companies for the treatment of ailments stemming from horrifying images implanted by the therapists. Some of the documents referred to the payment of insurance premiums by defendants so that treatment of the Abney family could continue even after Mr. Abney requested that his insurance coverage be discontinued for his wife and daughter. Medical records of Lynn Carl and her children were also reviewed. Carl had been awarded \$5.8 million in damages last year after she accused therapists of convincing her wrongly that she had suffered horrifying cult abuse.

On day 6 of the trial, a former patient at Spring Shadows Glen began testifying about her treatment there. Mary Shanley testified that she and her 9-year-old son were sent by their therapists in Illinois<sup>2</sup> to the hospital for "deprogramming." Shanley remained in the hospital for more than 2 years at a cost of more than \$1 million. Eventually, the insurance company was told that she had 10,000 alters. Shanley testified that she was given such high amounts of salt when her blood pressure became too low, that her body retained fluid. Shanley said that she was told this was a "body memory" of a pregnancy when she was in the cult. Shanley also described the use of physical restraints during "abreactive" therapy sessions when therapists tried to bring forth her alter personalities. Shanley said she was placed in restraints more than 100 times during her stay—sometimes for as long as 20 hours at a time.

On day 12 of the trial the defense began its cross-examination of Shanley. Defense attorney Rusty Hardin asked Shanley to name specific memories that had been implanted by the defendants. The defense hopes to show that the defendants provided care that was appropriate for the time. They say that the patients had already been diagnosed with serious mental illnesses before they arrived at Spring Shadows Glen.

Named in the 60-count federal indictment are psychologist Judith Peterson; psychiatrists Richard Seward and Gloria Keraga; therapist Sylvia Davis; and hospital administrator Jerry Mueck. The five former employees of Spring Shadows Glen Hospital in Houston are charged with conspiracy and mail fraud. Each count carries a maximum penalty of five years in prison and a \$250,000 fine.



**Editor's Note:** During September, the Illinois Department of Professional Regulation (DPR) broadened its probe into doctors it charges are misusing controversial repressed-memory therapies.

The DPR Complaint is based on a false-memory case involving a woman who—along with her two young children—had been placed in a psychiatric ward after treatment convinced her that she was part of a satanic cult. Through repressed memory therapy, including hypnosis, Patricia Burgus was led to believe that she participated in a Satanic cult despite the lack of any evidence to support that suggestion. There were no bones, no missing person reports. Eventually Burgus decided that her psychiatrists' suggestions were impossible and filed suit against Dr. Bennett Braun, Dr. Elva Poznanski, Dr. Roberta Sachs, and against Rush-Presbyterian where the treatment took place. That suit was eventually settled out of court for \$10.6 million. In the settlement, the hospital and doctors did not admit any negligence.

According to the *Chicago Tribune* (9/24/98), more patients who say their lives were ruined by Dr. Braun have come forward, hoping their names and stories can be added to the state's effort to revoke his medical license.



**Illinois Regulators File Complaint Against Second Doctor in False-Memory Case**

The Illinois Department of Professional Regulation (DPR) is now seeking to revoke the medical license of Dr. Elva Poznanski for her treatment and care of two young brothers, ages 3 and 5. According to the eight-count gross negligence complaint filed September 29, Poznanski helped make the boys falsely believe they were abused and had engaged in satanic activity during the time she oversaw the boys' three-year "incarceration" in the child psychiatric ward in Rush Presbyterian-St. Luke's Medical Center in Chicago. Poznanski was chief of child psychiatry at the center.

Both boys were diagnosed with multiple personality disorder. One boy was admitted before Halloween because it was feared the boy would be killed by a satanic cult on that date. According to the boys' mother, Patricia Burgus, Poznanski "brought real guns into therapy with my children, supposedly to see if indeed my children had been



trained to use real guns...She allowed my son John to handcuff her as part of his therapy. He was told this was part of his cult activities."

"[Poznanski] is just as responsible as Dr. Braun with regard to the two children," said Tom Glasgow, DPR's chief of medical prosecutions. "It's questionable even if a diagnosis for multiple personality disorder can be made for children that age. She knew -or should have known- inpatient therapy for them would be far more damaging than helpful. This really is the most egregious part of the Burgus case."

Braun's attorney, Harvey Harris, described Poznanski as a well-respected leader and practitioner in her field. A preliminary hearing for Poznanski is scheduled for Nov. 9.



### **Testimony at Disciplinary Hearing of Dr. Bennett Braun Tells of "Brainwashing"**

Hearings on whether to revoke the medical license of Dr. Bennett Braun, a leader in the controversial field of recovered memory and multiple personality therapy, began September 28. The Complaint issued by the Illinois Department of Professional Regulation (DPR) alleges that Braun's techniques almost destroyed the lives of the Burgus family. An angry group of Braun's former patients and their family members attended the hearing, but Braun did not appear.

Patricia Burgus described how she sought out treatment for depression after the difficult birth of her second son. She was referred to Dr. Braun and Rush-Presbyterian St. Luke's Medical Center where she was diagnosed as having MPD. Braun then told Burgus that it was likely she was involved in a satanic cult that participated in satanic sexual ritual abuse, since this was typical of patients with MPD. Both Burgus and her sons, then ages 3 and 5, were placed in locked psychiatric wards for two to three years. "We were put on massive experimental medicines, we were hypnotized, we were brainwashed," Burgus said. "...It was brutal, it was brainwashing and it should never have taken place in this country."

Braun's attorney, Harvey Harris, accused Burgus of conducting a "vendetta" against him. He said he will show how many of Braun's patients have grossly exaggerated claims and developed an unexplained need for retribution. He moved that the case should be dismissed because the state had failed to move in a timely manner. On October 7, Administrative Law Judge Philip Howe denied the motion to dismiss the complaint against Dr. Braun. Braun now has 30 days to respond to the judge's finding. Arguments in the case will be heard on Nov. 9.

"This is not a vendetta," Burgus said later. "This is strictly holding someone accountable for what he has done."

#### **References**

1 This report is taken from a series of articles by Mark Smith which appeared in the Houston Chronicle. See also FMSF Brief Bank #176 and FMSF Newsletter December 1997, October 1998. Or, for the latest trial developments, check the website: <http://www.FMSFonline.org>

2 Some of Shanley's Illinois therapists have been named as unindicted co-conspirators. Psychiatrist Bennett Braun and psychologist Roberta Sachs are among the co-conspirators.



### **Man Falsely Accused of Molestation Wins \$1.5 Million Settlement**

Whiting, B. (10/2/98) The Arizona Republic

The state of Arizona has agreed to pay a \$1.5 million settlement to a man once accused of sex crimes with his foster children. Ed Compton and his wife sued the state of Arizona, claiming that the Arizona Department of Economic Security failed to investigate allegations properly and failed to adequately train its employees to recognize false accusations. They accused workers of Child Protective Services, a DES division, of conducting a slipshod investigation involving three young girls who had been placed as foster children in their home six years earlier.

Mr. Compton's troubles began in September 1992 when a foster daughter, then 6, told a CPS worker that Compton had molested her older sister, then 8. CPS removed the two sisters as well as a third foster daughter, then 8, from Compton's home. Following a CPS investigation, criminal charges were filed. If convicted, Compton could have been sent to prison for more than 100 years. However, he was released from jail early in 1995 and the case was dropped. This was after the Arizona Attorney General's Office, which defended DES in a lawsuit against it by three of the foster children, filed court papers arguing that the alleged sexual abuse never happened. The state attorney general's office submitted papers which stated that doctors could not substantiate any sexual abuse of the three girls. It also offered documents that one of the girls had been in counseling for being a habitual liar and that another had been described by a state worker as "highly sexualized" before her placement with Compton. Mr. Compton was represented by Mark Kennedy of Phoenix.

Mary Ault, a DES administrator, declined to comment about the settlement, but said the agency is aware of troubling issues that were raised by Compton in his lawsuit. Ault said that during the past six years, the DES has initiated administrative changes and has rewritten rules, policies and procedures to prevent a repeat of the wrongs that were claimed by Compton.



## EXPERT TESTIMONY REGARDING REPRESSED MEMORY

Expert testimony about repressed memories may be presented at several levels of the legal process.<sup>1</sup> The majority of "repressed memory" cases involve claims of decades-past sexual abuse which the claimant alleges were unknown until formerly "repressed" memories were recovered.

Expert opinion is often submitted to bolster the claim that the statute of limitations should be tolled (extended) until the time the memory is recovered. However, most courts have held that an expert opinion does not automatically create a question of fact for a jury to hear.<sup>2</sup> Expert opinion may attempt to assist the court in determining what the complainant knew and when.<sup>3</sup>

Controversy has frequently arisen in this context. The reasons courts have rejected such expert opinion include the fact that the opinion may be based solely on conjecture;<sup>4</sup> may be given as a conclusion without supporting facts and is thus unverifiable;<sup>5</sup> or may have been tailored to meet statutory requirements.<sup>6</sup> The Wisconsin Supreme Court noted that the danger of fraud is great if courts were to rely on such subjective opinion.<sup>7</sup> After considering this problem, the Texas Supreme Court held that expert testimony does not meet the objective requirement for applying the discovery rule in Texas.<sup>8</sup>

Several appellate courts have held that the plaintiff must show that the phenomenon of memory repression and testimony based on that theory are reliable enough to be admitted at trial.<sup>9</sup> Other courts have anticipated that the reliability and admissibility of the testimony of the expert will be an issue.<sup>10</sup> In many jurisdictions, the trial judge, serving as gatekeeper, is instructed to determine whether the testimony and evidence is relevant, whether the expert is qualified to testify, and whether the proffered expert opinion is of probative value to the factfinder.<sup>11</sup> A North Carolina appellate court held that a plaintiff's testimony regarding recovered memories may not be heard at trial unless accompanied by expert testimony.<sup>12</sup> When the trial court subsequently found the expert testimony about memory repression and retrieval to be unreliable and inadmissible, the court ruled the complainant's testimony could not be heard either.

While expert testimony may permit judges to evaluate the competency of the complaining witness, we have found few appellate decisions which addressed that issue. Most, like the New Hampshire Supreme Court, focused on the problematic reliability of the repressed memory testimony.<sup>13</sup> In a number of cases, expert testimony served to shift the burden of producing evidence.<sup>14</sup>

## Repressed Memory Testimony in Murder Cases

In some cases, a witness' repressed memory testimony has led to murder charges. The FMS Foundation Legal Survey contains 9 cases in which charges were brought only after an individual came forward saying he or she had witnessed the murder, but had subsequently repressed all memory of the event until much later. It appears, however, in several of these cases that the reasons for a witness' delay in coming forward may involve more mundane, common sense concerns.

For example, the sole witness in the Crawford murder trial (discussed below), suggested that the reason for his 20-year delay in coming forward was due to repressed memory. He also suggested other reasons when he testified that he did not tell the police earlier because he was afraid that no one would believe him or that the police might blame him for the murder because he was often in trouble with the law. He had stolen cars, drank and got involved in fights. Just before coming forward, Reed testified, he began to see misty apparitions of the murdered woman who urged him to tell.

Similarly, in a California case, the girlfriend of a murder suspect initially provided the suspect with an alibi for the night of the murder. Years later, she came forward saying he had confessed to the crime at the time, but that she did not come forward earlier because she had repressed memory of his confession. Observers of the case note that she changed her story after the suspect raped her, was convicted, and sentenced to 13 years for that crime.<sup>15</sup>

In other cases, it is not at all clear what the witness meant by the term "repression" —especially when hypnosis was used. In a case which has received much press attention recently, a 1976 murder conviction<sup>16</sup> was questioned after the sole witness announced that his "recovered" memories of the crime scene were actually false and that he had been manipulated by investigators at the time. Most of the witness' memories came after he was hypnotized.<sup>17</sup> The witness' had steadfastly maintained that he had no memories of the events to which he eventually testified. The witness' testimony had come into question many times during the past 20 years, during six appeals. According to the witness' own lawyer, he was an impressionable young man in a juvenile detention center at the time of his original testimony. In an added twist to this case, the young man reportedly now says that he didn't come forward with the changed version of events because he had "repressed" the fact that he had been hypnotized and had testified at the murder trial.

In 1995, the State of Illinois relied on recovered "repressed memories" to charge Larry Stegman and another man with the murder of a young woman 29 years earlier.<sup>18</sup> Stegman's daughter, 32, claimed memories of the incident were recovered while in therapy. The state at first

Men occasionally stumble over the truth, but most of them pick themselves up and hurry off as if nothing happened.  
Winston Churchill

denied that its witness had ever been under hypnosis. Medical records, however, verified that she had been hypnotized. The trial judge prohibited the hypnotic testimony at trial and on October 1995, the state withdrew the murder charges.

George Franklin spent almost 7 years in prison for the murder of his daughter's childhood friend before his conviction was overturned in 1995.<sup>19</sup> His daughter, Eileen Franklin-Lipsker, drawing on supposedly repressed memories of the day of the killing 20 years earlier, testified against Franklin. Her testimony led to Franklin's conviction. Questions were first raised about Eileen's testimony because many of the details she described had been published in the media years earlier. A year later, as prosecutors planned to retry Franklin, it was disclosed that Eileen had been hypnotized by a therapist before the first trial. Such testimony is barred in California as unreliable. In 1990, Eileen told investigators that she remembered her father committing three more murders. Two of those "memories" could not be linked to any unsolved crime. DNA tests in the other cleared Franklin absolutely.



### **Two State Appellate Courts Hold that Trial Courts Did Not Err in Excluding Expert Testimony for Purpose of Explaining Why an Individual Delayed in Coming Forward**

*Editor's Note:* In both cases reported below, murder charges were brought only after an individual came forward saying he had witnessed the murder scene, but had subsequently repressed all memory of the event until much later. In both cases, the defense sought to challenge the witnesses by questioning their delay in coming forward with information. Under the circumstances of these cases, the courts held that the issue was the credibility of the witness rather than the reliability of the witness' "repressed memory" testimony. The courts' recitation of the facts showed that, in both cases, there was ample testimony available, other than the expert testimony, from which the jury could assess the credibility of the witness.

#### **State of Wisconsin v. Kutska, 1998 Wisc. App. LEXIS 1089, released Sept. 22, 1998.**

A Wisconsin Appellate Court recently considered an appeal of a murder conviction which raised 13 different arguments. One of those arguments stated that the defendant's right to present a defense was unfairly restricted when the trial court excluded certain expert testimony regarding repressed memory and suggestive interrogation. At trial, the defendants offered the expert testimony to attack a witness' account of his sudden and unexplained recollection of his observations six months after they occurred.

The trial court allowed the expert to testify about matters affecting eyewitness identification and factors affecting

memory, but not about repressed memory or the application of those principles to the witness' claim. The trial court was concerned with two potential problems with the expert's testimony. First, the expert could become a sort of "super juror" in the courtroom. For example, if the expert testified that under certain circumstances, the witness should not be considered reliable, this would amount to a kind of credibility "review-board" of witnesses and would invade the province of the jury. Second, the trial judge felt that most jurors' common sense would lead them to have some opinion on repressed memory and suggestive interrogation techniques. Therefore, the trial court concluded that the proposed testimony would not assist the jurors.

The Wisconsin appellate court ruled that the trial court had aptly exercised its discretion when it decided to exclude certain portions of the proposed expert testimony.



#### **Commonwealth of Pennsylvania v. Crawford, 1998 Pa. LEXIS 2150, decided September 30, 1998.**

Under the circumstances of this case, the Pennsylvania Supreme Court agreed that expert testimony that a witness' "repressed memory" could not be trusted should not be admitted because the testimony would attack the credibility of the prosecution's witness. The court found that the trial judge did not err in excluding expert testimony regarding revived repressed memories in this case and that the admissibility of evidence is a matter left to the discretion of the trial judge. Trial rulings are not to be disturbed on appeal unless an abuse of discretion is shown.

In so ruling, the Pennsylvania Supreme Court appeared to draw a distinction between the use of the repressed memory testimony in this case and other potential uses. For example, the Pennsylvania Supreme Court had recently ruled that repressed memory claims do not toll the statute of limitations under the discovery rule.<sup>20</sup> The question of whether repressed memory testimony is admissible at trial under *Frye* has not yet been decided by this court.<sup>21</sup>

No arrest was made in connection with the 1971 drowning of a woman until John Reed contacted the police more than 20 years later to report that he had witnessed events leading to the drowning and to identify Franklin Crawford as responsible for the woman's death. At the trial, Reed described a number of dream-like phenomena occurring over a three-year period in which the murdered woman urged him to tell the truth and reveal his long suppressed knowledge and thereby obtain justice. Crawford was subsequently convicted by a jury of second degree murder.

Reed's explanation for his inordinate delay in reporting his observations suggested he had experienced the return of repressed memories of seeing the woman in the process of being murdered by a river. He said he did not talk to anyone

about that night and claimed never to have thought about what happened, "I didn't even know it existed." But, the court noted, Reed also testified that he did not tell the police earlier because he was afraid that no one would believe him or that the police might blame him for the murder because he was often in trouble with the law. In the supreme court's view, Reed's testimony allowed the jury to determine for itself whether his testimony was credible, i.e., truthful or worthy of belief. The Pennsylvania Supreme Court held that in this case, the reliability of Reed's revived repressed memory was never an issue that needed to be resolved by the jury.<sup>22</sup> At issue, the court decided, was an assessment of Reed's credibility and that question was properly left to the jury.

The court's conclusion that the jury was capable of assessing Reed's credibility without expert testimony regarding revived repressed memory should be considered in light of the specific expert testimony offered. The court quoted extensively from an affidavit prepared by the defense witness. The Supreme court agreed with the trial judge that the expert's adamant assertion that Reed's memories of the events leading to the woman's death could not be considered accurate was inadmissible because it was an assessment of Reed's credibility.

The Pennsylvania Supreme Court reinstated the judgment of sentence.

#### References:

- 1 For a review, see Faigman, David, L., et al, (1997), Chapter 13: Repressed memories, *Modern Scientific Evidence: The Law and Science of Expert Testimony*, Vol. 1, St. Paul: West Publishing Co.
- 2 Kelly v. Marcantonio, 678 A.2d 873 (R.I., 1996) (The trial justice, after hearing and considering expert medical and scientific evidence and opinion will be in the best position to decide as a matter of law whether the alleged repressed recollection in a particular case is sufficiently relevant, reliable, and scientifically and/or medically established so as to constitute "unsound mind," thereby tolling the action limitation period. J.M. v. Merkl, No. C5-97-973, Minn. Ct. App., unpublished, filed March 10, 1998. (affirmed directed verdict. While the question of the admissibility of the expert testimony was not raised on appeal, the appellate court wrote, "We conclude that, on this record, which lacked any admissible expert testimony on the theory of revitalized repressed memory, the district court did not err in determining there was no fact issue for the jury and in directing a verdict for respondent based on the statute of limitations.")
- 3 Anonymous v. Anonymous, 154 Misc.2d 46 (N.Y. Supr. Ct., Suffolk Co., 1992) (ordered a fact finding hearing to determine plaintiff's mental capacity due to her PTSD condition to "establish that the mental affliction either existed at the time of the accrual of the cause of action or that it was caused by the event upon which the lawsuit was predicated." The court noted several inadequacies with the expert affidavit, i.e., it did not describe the nature of the exam performed or the factual basis for the expert's conclusions and findings.)
- 4 Moore v. Schiano, 1996 Ohio App. LEXIS 5836 (affirmed summary judgment) Because the expert met plaintiff years after the alleged events and did not specify what information the expert's opinion was based on it "is based upon mere conjecture and is beyond the personal knowledge of the affiant. Hence, it is insufficient to create a genuine issue of material fact on the issue of the statute of limitations.")
- 5 Florez v. Sargeant, 1996 Ariz. LEXIS 59 (granted summary judgment; "Affidavits that only set forth ultimate facts or conclusions of law can neither support nor defeat a motion for summary judgment. An expert affidavit opposing a motion for summary judgment must set forth "specific facts" to support an opinion...The affidavits here are not objectionable because they embrace an ultimate issue, but because they are without relevant foundation." and are therefore insufficient to support a legal finding of "unsound mind.""); State of Rhode Island v. Quattrocchi, 681 A.2d 879 (R.I., 1996), citing State v. Cressey, 628 A.2d 696 (N.H., 1993) ("Finally, we are not convinced that a thorough cross-examination can effectively expose any unreliable elements or assumptions...In such a case, the expert's conclusions are as impenetrable as they are unverifiable."); See also, Nolde v. Frankie, 1998 Ariz. LEXIS 579.
- 6 Pritzlaff v. Archdiocese of Milwaukee, 533 N.W.2d 780 (Wisc., 1995). "This court has frequently been dismayed by the examination of trial court records which showed a marked propensity of those who purport to have psychiatric expertise to tailor their testimony to the particular client whom they represent, fraud becomes a distinct possibility."
- 7 Pritzlaff v. Archdiocese of Milwaukee, 533 N.W.2d 780 (Wisc., 1995). (affirmed trial court's dismissal. "Here the alleged damages are all 'emotional' and 'psychological,' with the plaintiffs experts claiming that damage exists and was caused by the defendant...While some courts may have blind faith in all phases of psychiatry, this court does not...Nor are we convinced that even careful cross-examination in this esoteric and largely unproved field is likely to reveal the truth. Such circumstances are ripe for fraudulent claims.")
- 8 S.V. v. R.V., 933 S.W.2d 1 (For purposes of applying the discovery rule, expert testimony on subjects about which there is no settled scientific view -indeed, not even a majority scientific view- cannot provide objective verification of abuse.)
- 9 McCollum v. D'Arcy, 638 A.2d 797, (N.H., 1994) (affirmed and remanded; although the discovery rule applies to toll statute of limitations, the proponent of recovered memory still bore "the burden...to validate the phenomenon of memory repression itself and the admissibility of evidence flowing therefrom."); State of New Hampshire v. Hungerford, 697 A.2d 916 (expert testimony must rise to a threshold level of reliability to be admissible. "We apply these principles in the repressed memory context -both to the witness claiming to have recovered memory and to the expert explaining the phenomenon."); State of New Hampshire v. Walters, 698 A.2d 1244 (N.H., 1997) (reversed the trial court's ruling that repressed memory testimony is admissible. "Upon the objection of the opposing party, the proponent of testimony comprised of recovered memories must demonstrate that the testimony is reliable."); Olsen v. Hookey, 865 P.2d 1345 (Utah, 1993) (remanded this repressed memory claim holding that the discovery rule applied but that plaintiff "still bears the burden of proving at trial that she did in fact repress a memory of actual facts.")
- 10 Olsen v. Hookey, supra. ("Because of the dearth of empirical scientific evidence regarding the authenticity and reliability of revived memories, the inherent reliability and admissibility of expert witness testimony regarding memory repression and revival may be an issue that will have to be reached at trial. We cannot resolve this issue now because it is not before us."); K.B. v. Evangelical Lutheran Church, 538 N.W.2d 152, (Minn. App. 1995). (affirmed dismissal of this Type 1 claim; noted that the emerging conflict within the psychiatric community over the validity of discovered memories of sexual abuse impacts on the admissibility of expert opinions under the standard set forth in Frye.)
- 11 See, e.g., Kelly v. Marcantonio, 678 A.2d 873 (R.I., 1996). See also, State of Rhode Island v. Quattrocchi, 681 A.2d 879 (R.I., 1996). (conviction overturned; "When such testimony is offered, particularly expert testimony relating to the basis for such repression of recollection... the trial justice should exercise a gate-keeping function and hold a preliminary evidentiary hearing outside the presence of the jury in order to determine whether such evidence is reliable and whether the situation is one on which expert testimony is appropriate.")
- 12 Barrett v. Hyldborg, 487 S.E.2d 803 (N.C. App., 1997). The trial court had held that "The alleged repressed memory evidence to be offered by plaintiff is beyond the life experience of the average juror, and therefore, a juror would have no basis on which to determine the credibility or reliability of the alleged victim's testimony." The New Hampshire Supreme Court held similarly, State of New Hampshire v. Hungerford, supra. ("A review of the scientific literature on the subject reveals, however, that ordinary jurors cannot be expected to analyze such claims without the assistance of experts.")
- 13 State of New Hampshire v. Hungerford, 697 A.2d 916. "Just as our inquiry is not purely one of competence, it is not purely a question of the admissibility of scientific or expert evidence...Our case law is clear that if the subject matter in dispute is beyond the general understanding of a jury, the party bearing the burden of proof must adduce expert testimony to explain such evidence. Further, expert testimony is required when the issues in a case are particularly esoteric or when the matter to be determined by the trier of fact is so distinctly related to a particular science, occupation, business, or profession that it is beyond the ability of the average layperson to understand."
- 14 Ramona v. Superior Court, 57 Cal. App. 4th 107 (Cal. App. 1997) The court held that defense witness Dr. Martin Orne's expert opinion was sufficient to shift the burden of producing evidence to the plaintiff, who was then required to pro-

duce specific facts showing a triable issue exists as to whether her post-sodium-amytal memories are reliable. However, the court noted that Colin Ross, plaintiff's sole expert on sodium amytal, did not state her memories, recalled two years after the sodium amytal interview, were not affected by the drug. Therefore, the court determined that plaintiff's testimony must be excluded under Kelly/Frye.

15 State of California v. Bouck, Los Angeles Superior Ct., Calif., No. \_\_\_\_\_. In Nov. 1997, after his girlfriend withdrew the alibi she had provided, Guy Dean Bouck pled guilty to shooting his wife in order to avoid the death penalty.

16 State of Florida v. Joseph Spaziano, Ninth Judicial Circuit Ct., Orange Co., Florida, No. \_\_\_\_\_. In 1996 the Florida Supreme Court upheld a circuit court decision to overturn the conviction. In June 1997, prosecutors said they would retry Spaziano.

17 At the time of the trial, hypnosis was assumed to enhance memory. The Florida Supreme Court ruled that hypnosis-induced testimony is unreliable. That ruling was not retroactive, however, which means it does not affect the Spaziano case.

18 State of Illinois v. Stegman, Circuit Ct., Massac Co., Illinois, No. \_\_\_\_\_.

19 Franklin v. Duncan, 1995 U.S. Dist. LEXIS 4955.

20 Dalrymple v. Brown, 1997 WL 499945 (Penn, 1997). The court emphasized that a claimant's incapacity, her inability to remember, did not extend the statute of limitations. The court was loath to apply the discovery rule where the injury is subjective and proof is likely to be dependent on the claimant's testimony. In addition, according to a concurring opinion, the majority's ruling was really motivated by its distrust of the entire theory behind repressed memories.

21 In the Crawford decision, the Pennsylvania Supreme Court specifically stated that it declined to address the question of whether or not expert testimony regarding revived repressed memory would be admissible into evidence under the standard articulated in Frye v. United States, 293 F. 1013 (D.C. Cir. 1923).

22 According to the Pennsylvania Supreme Court, at trial the state did not seek to establish that Reed's explanation for his delay in coming forward was scientifically supported by the phenomenon of revived repressed memory. In fact, the prosecutor's closing argument conceded that Reed's explanation strained credulity.

## UPDATES ON CASES WE HAVE BEEN FOLLOWING

**Hypnotherapist Asks For Parole<sup>1</sup>:** A hypnotherapist who had been criminally charged with implanting false memories during therapy she provided, has sought early release, just three months after she began her 2 1/2 year prison sentence. Geraldine A. Lamb pled guilty in April to insurance fraud and practicing psychology without a license. In return, the remaining counts, including those alleging she implanted false memories, were

dropped.

The Missouri attorney general's office has opposed Lamb's early release. Several victims of Lamb's therapy spoke at the parole board hearing. The board's decision on whether Lamb is eligible for parole is expected within 4 to 6 weeks of the September 30 hearing.

**Innocence Project Takes Up Wenatchee Cause<sup>2</sup>:** At last report, more than 80 people are now involved in examining court, police, and CPS records and preparing legal briefs to appeal for new trials of Wenatchee convictions. The volunteers are national experts in police misconduct, mental health abuse, civil rights and DNA evidence. Some are law professors at the University of Washington and Seattle University. Others are practicing attorneys, most with 15 to 20 years of experience. They have fought and won some of the state's hottest legal battles and have now come together in what may be the nation's largest collection of free legal talent ever assembled. Called the Innocence Project Northwest, the attorneys intend to work to win new trials for 16 people still in prison from the Wenatchee child sex-abuse cases.

Seattle lawyer Fred Leatherman and University of Washington law lecturer Jackie McMurtie are co-founders of the project. The National Association of Criminal Defense Lawyers has offered to cover some costs of the project.

1 See also FMSF Newsletter July 1998. Report taken from Carlton, J.G. (9/30/98) "Hypnotherapist is set to make plea for parole today," St. Louis Post-Dispatch.

2 For more information, see Schneider, Andrew (7/10/98) "Expert legal team takes up Wenatchee cause," Seattle Post-Intelligencer.



## NEWS FLASH! August Piper Jr., M.D.

Uncultivated minds are not full of wild flowers, like uncultivated fields. Villainous weeds grow in them, and they are full of toads.

Logan Pearsall Smith, 1931

Opening the "News of the Day" file, we discover—remember you heard it first right here!—that multiple personality disorder has now been discovered in a chimpanzee.

That's right, folks: according to a newspaper, a French animal psychologist "confirms" that the chimp, named Kiki, exhibits "all the disorder's classic signs." The expert says Kiki is sometimes "gentle and passive, but at other times is vicious and selfish, stealing food from other animals."

There's more. The psychologist says Kiki responds only to commands if, at the time, she is in the same mode she was in when she learned the commands. And he also claims that Kiki has two distinct "memory banks:" when one personality is "out," the chimp recognizes only those people she met at the time she was previously in that personality.

\* \* \*

One could simply laugh at this story, dismissing it as the product of a fevered or uncultivated mind. For example, one could reasonably ask why stealing food is elevated to the level of "personality"—why couldn't Kiki have just been hungry? Or, given that animals typically require a long time to learn commands, one might also wonder how the psychologist could know what "mode" Kiki was in when she learned the commands. Or one could ask how the expert determines that when the chimpanzee fails to "recognize" or obey certain people, she is not, for her own reasons, merely ignoring

them? And one could even ask how anyone—even an animal psychologist—can be certain that a chimpanzee truly does or does not recognize a person.

Yes, one could indeed consider this story a laughable excess—or the hoax it very well may be—if it were not for the disquieting fact that some therapists who treat Kiki's human cousins behave exactly like the French psychologist.

First, many of these practitioners deliver themselves of pronouncements about mental processes—such as “dissociation” or “repression”—that are completely invisible. Because of this invisibility, and because the practitioners have no instruments to reliably detect these processes, such pronouncements represent nothing more than rank speculation.

Second, many practitioners diagnose MPD on the very flimsiest evidence. That is, transient mood changes, wearing different clothes, having bodily symptoms (such as headache or an upset stomach), or memory lapses (such as the perfectly normal inability to remember trivial events from one's very distant past), are all seen as evidence of “alters” at work; that a person has MPD. In other words, the term “personality” is so vague that therapists have a huge latitude to define the word however they want.

That the notion of MPD has been widely disseminated through, and often uncritically accepted by, the therapy community are further reasons for disquiet. The damage this dissemination can do was recently brought home to me by the experiences of two patients, Ms. A and Ms. B. The first was a 43-year-old woman who, for several years, had received counseling from a local agency providing services for the blind. For years, Ms. A had had a very pleasant relationship with a female therapist at this agency. One day, she went to see an outside psychologist to evaluate her eligibility for state disability assistance. Ms. A told me that this therapist, after spending only a few minutes with her, announced that she suffered from MPD.

When her agency therapist heard

about this diagnosis, she told Ms. A she could no longer treat her, because she was not qualified to treat patients with such a serious disorder.

Ms. A protested. “I never had any personalities, and I definitely don't think I have MPD. Look—I'm doing well in life, working every day.”

“You just don't realize how serious MPD is,” the therapist replied. “It means something bad happened to you when you were a child. Besides, lots of people have MPD and don't know it. This condition is out of my league...I just can't treat you any more.”

The upshot of all this was that Ms. A. lost her therapist, with whom she had enjoyed a long relationship. When she protested the diagnosis, the agency told her she could get a second opinion—but only from a practitioner approved by the agency. Ms. A felt aggrieved about all this and, after getting my name from a friend, posed that question to me: what should she do?

Ms. B's case was even more disquieting. I received a call last year from a mother. She and her husband were concerned about Ms. B their 14-year-old daughter, who, because of problems with bulimia, had started therapy with a licensed counselor about eighteen months previously. The counselor had told her she suffered from MPD, that MPD and bulimia were sure signs of childhood sexual mistreatment, and that healing required unearthing and discussing this mistreatment.

Neither parent knew anything about their daughter being maltreated as a child, and neither had ever seen Ms. B display any “alter personalities.” Ms. B's physician, who had known her for years, had never seen any, either; he thought the MPD diagnosis was preposterous, and told her that. Also, Ms. B had never once mentioned being sexually or otherwise mistreated as a child. And even after being in treatment for several months with her present counselor, she still did not recall any childhood maltreatment—although she was desperately trying to do so.

The parents were worried because

their daughter was clearly deteriorating, despite expensive twice-weekly sessions with the counselor: more difficulty with the eating disorder, more anxiety, more suicidal ideation. Most ominously, Ms. B had started cutting on herself—something she had never done before.

The parents were quite disturbed by what happened when they tried convincing their daughter that the treatment was inappropriate and manifestly unhelpful. She told them, “You think you know everything”; “Stop trying to run my life—I like this therapist”; “You don't know what's happening, because you're not at our sessions”; “You just don't understand the treatment”; etc., etc.

Ms. B's mother met with the counselor. To her horror, she discovered the therapist was unshakable in her convictions that her diagnosis was correct, and that Ms. B had been mistreated during childhood.

The parents naturally felt a moral duty to protect their child from harm. It also troubled them to be paying for a treatment they considered hurtful and wrong-headed. On the other hand, they recognized the importance of confidentiality in psychotherapy, of not meddling in someone's counseling relationship. They wished to avoid igniting the firestorm of adolescent rebellion that would probably flare if they simply forbade Ms. B to see the counselor. And finally, they wanted to support their daughter's nascent efforts to find, as a young adult, her own way in life.

What should they do? That was the question posed to me.

And that, dear reader, is the question I leave with you. Do you have advice for Ms. A. and for Ms. B's family? Send your thoughts; in the next column, I'll tell you what happened to the patients.

*August Piper Jr., M.D., is the author of Hoax and Reality: The Bizarre World of Multiple Personality Disorder. He is in private practice in Seattle and is a member of the FMSF Scientific Advisory Board.*





Dear FMSF Newsletter Reader,

Many of you were a great support to me in the early days of my accident, and you continue to be important to Toby and me as I work to return to a more complete use of my body. Thank you for your letters, cards and prayers—they touched us. My physical improvement no doubt was aided by my mental outlook, and your caring and interest were important in helping me maintain a positive outlook.

I'm back at the office one day a week and hopefully, by time you read this, it will be twice a week. It is great (a big understatement) to be back. Toby and Pam kept me informed about what was going on and Toby would read or summarize important articles for me. I even had the opportunity to make some small contributions, but not nearly as much as was needed, nor as much as I would have liked.

I continue with my physical therapy and hope to regain greater use of my left arm to the point where I can type with two hands. My work, just like the Foundation's, isn't over and again like FMSF, I'm going to give it my best shot.

Thank you for your many kindnesses.

Sincerely,  
Allen Feld



### Get Involved

Those falsely accused of child sexual abuse years after the alleged event appear generally to have two primary goals: (1) The return of the accuser and the accuser's supporters to a loving relationship with the accused and other affected members of the family, and (2) Relief from the fear and isolation that such accusations can engender. There is a third and very valid goal that many overlook, but

which can, in a larger sense, positively affect both goals. That is to work diligently to inform the public about the false memory syndrome problem and to work to see that it is put to an end.

Some folks who get involved in FMS activities (primarily attending meetings of FMS groups) get discouraged when information alone doesn't help their own individual cases. So they return to isolation, hoping that by "ignoring" the subject their pain will be diminished.

Returning to isolation does not work. Information is power, but it must be disseminated. "But if I do that, folks will begin to guess that I am one of those accused, and everyone knows that you are guilty without a trial or a chance to explain," they think. Sorry, the experience of those who have carefully but courageously spread the word is just the opposite.

I will concede that the probabilities are that "spreading the word" will have little to do with reconciliation, but it can have a great deal to do with overcoming the fear and isolation of being falsely accused. I can only cite my own experience and anecdotal experiences of others.

I happen to make my retirement living as an entertainer, primarily of children. I would have much to lose if the idea got out that I was an "abuser." Nevertheless, as a New England area FMS group leader, I have repeatedly encouraged others to make a carefully planned effort to inform trusted family members and friends of the accusations and of the latest research on the matter. It is essential to be well-informed and the FMSF Newsletter is an excellent source of solid information.

Often, a good place to start telling your story is to your clergyman, who, of course, is pledged to confidentiality. Ask him or her to join in the effort to inform the public about FMS. Sit down with trusted family members and friends, perhaps one couple or

individual at a time and tell them the whole story. Remind them of the many TV programs and news articles that have acknowledged the misconceptions of recent years. (The prestigious PBS Frontline documentaries by Ofra Bikel and the Recommendations on Recovered Memories by the British Royal College of Psychiatrists are excellent sources. Contact FMSF for details.) Your honesty, openness and solid knowledge of the facts can only impress those whom you would trust with confidences.

In my own case, I have shared the matter with clergy, a men's group I facilitate at church and others whose integrity and good sense I trust. These include a state legislator who found my willingness to share my story and my rich source of evidentiary material more than sufficient to overcome what this legislator admitted would otherwise have been a real skepticism.

Further, as an occasional lay preacher in my church I spoke on two successive Sundays, first on the subject of rampant public gullibility that includes all of us to some extent, and then on the specific subject of the FMS problem. All of our services are broadcast on four local public access television stations. Many times, someone has told me of a friend or relative who they had just learned was suffering from the same problem. I suggest they contact the FMSF and I give them materials.

Sharing facts confidently can be freeing; it overcomes fear and isolation. It may or may not have a direct effect on your relationship with the accused. In my case it has resulted in reestablishing a solid relationship with a member of my family who felt, at the time of the accusations, that they had to be true. A heavy flow of literature and invitations, as my guest, to national FMSF conferences (even though refused) clearly had an effect.

Do we talk about the accusations? No. We don't need to. Let the other



party pick the time and place. If it never happens, that's OK. Those who have been the accusers or their supporters suffer great pain. We don't need to add to their misery.

Am I still careful with whom I share my story? Of course. But I have been willing to take risks when my instincts suggested. And I am 100% stronger for it. Think about it.

Paul

(Paul will send a copy of his sermon. Call 203-458-9173.)



#### BEFORE

##### A Mother's Day 1992 note

In spite of my harsh words at times, I'm not forgetting who went to all those PTA meetings, who led all those Girl Scout troops, sewed all those costumes, drove to all those lessons and appointments, nursed us when we were sick, put tape over her mouth in sympathy for orthodontic or oral surgery stress, kissed her rings for us, got sore shoulders trying to make Christmas perfect, got tears in her eyes for "Every time I hear a newborn baby cry," and on and on and on... I'm sorry I've ever hurt you but I do love you very much.

#### AFTER

January 4, 1993

I did appreciate the Christmas fruit, the National Geographic, the years of cards on birthdays and holidays, but now I want to make a clean break of it. I don't want you to call me, write to me or try to contact me in any way ever again unless you've had 2 years of weekly therapy sessions with a qualified therapist. If only one of you goes, that one can contact me after that condition has been met.

#### Response to Piper's Column

Please count me among those who must have a recantation before any reconciliation can begin. Some expression of remorse would be appropriate, as well.

Ten years ago my daughter accused her deceased father. About one year later, I was accused. With me, she had a live target and never mentioned her father again.

Three years ago my daughter suggested we meet. Her desire to reconcile was based on, "a mutual willingness to forget the past." Forgetting is an "impossible-bility" for me. So I declined. I'm not a good enough actress to pull it off. My daughter is, having acted on stage in three world capitals. So, right there, I was out-classed.

It took years to come to terms with the loss of my daughter, despite the fact that our best years were marred by her hostile nature. No united family remains for her to return to. At 78 I'm wise enough to appreciate what I have and selfish enough to guard my peace and happiness. My companion of 14 years is a man my daughter openly disliked. He's not wild about her either.

Am I hard-hearted and cold? I think not

But you can bet -

Were she to have a change of heart,  
No longer wish to play that part,  
I might drop dead, but I'd recover,  
Cuz, after all, I am her mother.

A Mom



#### Personal Choices

I've been thinking about the differences between Alzheimer's and FMS. Alzheimer's is not something a person embraces voluntarily. My lovely Mother suffered from it; she died twice—once in mind and then in body.

But a person enters into the false memory belief patterns because of

personal unhappiness, looking for someone to blame. The easiest people to blame are parents. This has been an issue for decades, ever since therapists first hung out shingles. When I was young, the blame was on mothers: if a child was a misfit, it was because mom toilet trained him or her too early. That seems ridiculous now, but it was believed then just as strongly as the accusations against parents are now believed.

Taking the therapist's word, entering into a concerted effort to divorce oneself from the family, drawing in siblings, filing lawsuits, and seeking vengeance and money are all volunteer activities. Eleanor Roosevelt once said, "In the long run, we shape our lives and we shape ourselves. The process never ends...and the choices we make are ultimately our own responsibility."

If some parents want to accept their children back into the family, so be it; I am happy for them and rejoice. For me, there are just too many unanswered questions that could hang in the family for generations.

"I want my inheritance now," still rings in my ears. If twenty-five thousand dollars constitutes an inheritance with five thousand more to recant, the bond of my family is shattered. Is that the price for a family?

I find I agree with Rhett Butler who so aptly responded to Scarlett when she wanted to know what would become of her, "Frankly, my dear, I don't give a damn."

A Mother who agrees with Rhett.



#### In a Word: No Apology

Reading the last two issues of the Newsletter was a rewarding experience for me. I get the feeling that good minds are zeroing in on the full nature of the problem that Recovered Memory Therapy presents to the consuming public, and that this long

tragedy will yet reach resolution for everyone.

I'd like to reply to August Piper's query as to whether or not the "accused" should adopt a hard-line response to those retractor/returnees who made wrongful (i.e. mistaken) and unjust assumptions and accusations of parents, family members and childhood acquaintances.

In a word: *no apology*. Both the accused and their accusers have suffered harm, either in pursuit of RMT or in response (or lack thereof) to its claims of us. How can either faction be blamed (or be more responsible than the other) for being caught up in the lure of those who would profess to help give direction for our lives. Tens, perhaps hundreds, of thousands of people worldwide have sought to purchase from "experts" a way to "make a life" for themselves. In this instance, the shaky logic and unsubstantiated theories and procedures of the therapist investigators have failed utterly to determine a cause—or cure—for troubled people's emotional distress and directionlessness.

**Buyer beware.** Perhaps its time for a consumers' boycott to put an end to the however-well-intentioned game-playing with our mental health and life purpose.

In truth,  
Barbara, A Mom,



### This Helped Me

"Why must this happen to us?" was my inner lament, followed by: "I do not understand!" and "How can I cope?" Through prayerful thought, an answer came that comforted me each time I read it. I titled it:

#### For Now: I Understand

I do understand:

I never felt like just-a-mom or just-a-wife.  
I loved both roles—they were my life.  
This brought me challenge, joy, and sorrow;

I claim that joy to take me through tomorrow.

I do understand:

She was our perky, happy child;  
Sure of being loved, she often smiled.  
As she grew up, she never lacked for care;  
She looked to me, and found me always there.

I do understand:

My little girl became a lovely woman  
Who brought to us a child to love  
For seven years, we loved and watched her grow.  
No one can steal those memories we know.

I do understand:

Right at this time, there is no choice;  
They cut us off — we have no voice.

I do understand:

She knows it's her loss too — and grieves;  
Sis and Mom and Dad; gone, like autumn leaves.

I do understand:

Even tho' our grandchild is kept away from us,  
For her dear sake, we must not make a fuss.

I do understand:

I should not waste one day of living;  
I'll keep my faith and try forgiving.  
Life has new dimensions to explore.  
I will do that — and hope for more.

I do understand:

With God's help, Reunion day will come.  
For now..I'm still-a-wife,  
I'm still-a-mom...I'm glad.

Finally, the realization came that  
damaging emotions must be allowed to

fizzle and die — it was them or me!  
That's when the following resolve  
popped to life. I keep it on my desk for  
re-enforcement when self pity and  
other harmful, useless feelings  
lurk...Does it always help?...No, but it  
gives me a jump start in the right direction.

No more hugging close the hurt.

I have to let it go.

To cherish pain is to prolong discordant  
parts of life's sweet song.

There is some joy in every day

I will reach out for it, and pray.

Four years have passed. I will  
never totally give up hope, nor can I  
(we) ever feel complete happiness.  
However, the above "formula" encourages  
me to embrace life as a gift not to  
be wasted.

Perhaps sharing these words will  
help someone else. I'll add that to my  
hopes.

A Wife, Mother, and Grandmother



"Those who grovel around in the past  
in the pursuit of so-called 'recovered  
memory' may be doing more harm than  
good. It is not necessarily the case that  
those who forget the past are doomed to  
repeat its mistakes, and one might well  
argue that a little bit of forgetting of his-  
tory would often help."

Steven Rose

*The Guardian*, May 23, 1998

### SOUTHERN CALIFORNIA

#### "RECONNECTION: BUILDING A BRIDGE"

Saturday, November 7, 1998 9 a.m. - 4 p.m.

The CENTRE at Sycamore Plaza

5000 Clark Ave. Lakewood, CA (North of Long Beach)

Speakers: Pamela Freyd, Ph.D. Eleanor Goldstein, Paul Simpson, Ed.D.

For more information call

Cecilia: (310) 545-6064 Carole: (805) 967-8058

Skeptic Society Meeting: Sunday, November 8, 1998 2 p.m.

Baxter Lecture Hall, California Institute of Technology, Pasadena, CA

Speakers: Pamela Freyd, Ph.D. Eleanor Goldstein

For more information call (626) 794-3119

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## ALASKA

Kathleen (907) 337-7821

## ARIZONA

Barbara (602) 924-0975;  
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Al &amp; Lela (870) 363-4368

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3rd Sat. (bi-MO) @10am

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Carole (805) 967-8058

## Central Orange County - 1st Fri. (MO) @ 7pm

Chris &amp; Alan (714) 733-2925

## Covina Area - 1st Mon. (MO) @ 7:30pm

Floyd &amp; Libby (626) 330-2321

## San Diego Area

Dee (619) 941-4816

## COLORADO

## Colorado Springs

Doris (719) 488-9738

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Earl (203) 329-8365 or  
Paul (203) 458-9173

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Madeline (954) 966-4FMS

## Boca/Delray - 2nd &amp; 4th Thurs (MO) @ 1pm

Helen (407) 498-8684

## Central Florida - Please call for mtg. time

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## Indiana Assn. for Responsible Mental Health Practices

Nickie (317) 471-0922; fax (317) 334-9839  
Pat (219) 482-2847

## IOWA

## Des Moines - 2nd Sat. (MO) @ 11:30am Lunch

Betty &amp; Gayle (515) 270-6976

## KANSAS

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Pat (785) 738-4840

Jan (816) 931-1340

## KENTUCKY

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## LOUISIANA

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Mae (314) 837-1976

## Springfield - 4th Sat. (MO) @ 12:30pm

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Sy (505) 758-0726

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## Montrose

John (717) 278-2040

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## TENNESSEE

## Wed. (MO) @ 1pm

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Susanne &amp; John (608) 427-3686

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@ 1- 4pm

Ruth (604) 925-1539

## Victoria &amp; Vancouver Island - 3rd Tues. (MO)

@ 7:30pm

John (250) 721-3219

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Joan (204) 284-0118

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Adriaan (519) 471-6338

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Colleen (09) 416-7443

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## UNITED KINGDOM

## The British False Memory Society

Roger Scotford (44) 1225 868-682

Deadline for the December Newsletter  
is Nov. 15 Meeting notices MUST be in  
writing and should be sent no later  
than two months prior to meeting.

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November 1, 1998

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if you wish to receive electronic versions of this newsletter and notices of radio and television broadcasts about FMS. All the message need say is "add to the FMS-News". It would be useful, but not necessary, if you add your full name (all addresses and names will remain strictly confidential).

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